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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,251	09/19/2003	Paul Feucht	Uni.PA.001	6945

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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,251

Applicant(s)

FEUCHT ET AL

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-27 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The replacement sheet filed on Jan. 10, 2005 has not been approved since the addition of the VELCRO strip is considered to be new matter. The original specification fails to provide basis for the size, shape, and location of the VELCRO strip added to figure 2A.

The drawing corrections filed on Jan. 10, 2005 have not been approved (in view of the added VELCRO) so the drawings still have the following problems: The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the advertising display defined in claims 1,12, and 21, the VELCRO defined in claims 4,16, and 27, and the glossy covering defined in claims 11 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 4,16, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4,16, and 27, line 2, the use of the term “VELCRO” makes the claim indefinite since “VELCRO” is a trademark which is being used as a limitation in the claim to identify or describe a particular material or product, see MPEP 2173.05 (u).

It appears that claim 5 should have been canceled and not withdrawn as indicated by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,6-8,12-15,17, and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858).

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Fuller shows in figures 1-6 a device comprising a cylindrically shaped foam insert (11) capable of being placed on a hose, a covering (13) adapted to at least substantially cover the foam insert, and an advertising display (50). Fuller et al. does not disclose placing the device on a hose.

Brach, Jr. et al. shows in figure 1 the idea of attaching an advertising display device to a hose (300). In view of the teachings of Brach, Jr. et al. it would have been obvious to one in the art to modify Fuller et al. by attaching the device to a hose since this would allow the device of Fuller et al. to be used on a wider range of devices for advertising purposes as well as to protect the hose from damage. In regard to claim 2, Fuller shows in figures 1-6 that the cover is attached to the foam insert. In regard to claims 3 and 15, Fuller shows in figure 6 a zipper (63) used to attach the cover. In regard to claims 7,8, 13, and 14, Fuller shows in figure 2 that the foam insert includes a hollow core and a slit (where the lead line for numeral 20 is directed). In regard to claim 12, Fuller discloses the use of first securing means (adhesive 31 (column 3, lines 13-15) or means 16 or means 63) for securing the covering the foam insert and a second securing means (adhesive 31 (column 3, lines 1-2) or means 16 or means 63). In regard to claim 17, Fuller et al. discloses the use of cable ties (16), see column3, lines 21-23. In regard to claims 6 and 23, Fuller et al. discloses the use of cable ties (16), see column3, lines 21-23.

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Claims 9,11,18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858) as applied to claims 1 and 12 above and further in view of Lackomar (U.S. Patent No. 6,237,267).

In regard to claims 9 and 18, Fuller et al. shows in figure 5 that the cover includes a pocket (53). Fuller et al. does not disclose placing two or more pockets on the cover. Lackomar shows in figures 1 and 2 a display that includes a plurality of pockets (20). In view of the teachings of Lackomar it would have been obvious to one in the art to modify Fuller et al. by providing a plurality of pockets since this would allow more information to be held and displayed by the cover. In regard to claims 11 and 20, Fuller et al. does not disclose whether the covering (53) is glossy. Lackomar discloses the idea of making the covers (20) from a transparent material which would have some glossiness. In view of the teachings of Lackomar it would have been obvious to one in the art to modify Fuller et al. by making the covering (53) glossy since this would allow the subject matter being displayed within the pocket formed by the covering to be seen, i.e. making the covering transparent.

Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858) as applied to claims 2 and 12 above and further in view of Richards (U.S. Patent No. 6,250,005).

Fuller et al. in view of Brach, Jr. et al. does not disclose using VELCRO to secure the covering to the foam insert. Richards shows in figures 1-6 a cover that includes VELCRO (12,13) which are used to secure the cover to a support surface. In view of the teachings of

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Richards it would have been obvious to one in the art to modify Fuller et al. by replacing the fasteners (16 or 630 with VELCRO since this would allow the cover to be attached to the foam insert in an easier and faster manner.

Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858) as applied to claims 1 and 12 above and further in view of Ruiz (U.S. Patent No. 6,079,135).

Fuller et al. in view of Brach, Jr. et al. does not disclose placing at least one reflective strip on the covering. Ruiz shows in figures 1-3 a display that includes a reflective strip (7,14) on the cover. In view of the teachings of Ruiz it would have been obvious to one in the art to modify Fuller et al. by attaching a reflective strip to the cover since this would allow the cover to be seen in a better manner during low light conditions.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858) as applied to claim 25 above and further in view of Richards (U.S. Patent No. 6,250,005).

Fuller et al. in view of Brach, Jr. et al. does not disclose using VELCRO to secure the covering to the foam insert. Richards shows in figures 1-6 a cover that includes VELCRO (12,13) which are used to secure the cover to a support surface. In view of the teachings of Richards it would have been obvious to one in the art to modify Fuller et al. by replacing the

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fasteners (16 or 630 with VELCRO since this would allow the cover to be attached to the foam insert in an easier and faster manner.

Response to Arguments

Applicant's arguments filed Jan. 10, 2005 have been fully considered but they are not persuasive.

The applicant argues that there is no teaching or suggestion to combine the references, i.e. Fuller et al. in view of Brach, Jr. et al. The examiner disagrees since the Fuller et al. patent teaches the use of a device that is attached to a tubular member at a gas station to provide protection to the tubular member as well as to allow advertising indicia to be attached to the tubular member. Fuller et al. simply fails to define the idea of attaching the device to a house. Brach, Jr. et al. teaches the use of a device that is attached to a hose (tubular member) at a gas station for advertising purposes. The teachings of Brach, Jr. et al. provides the advantage of allowing the device of Fuller et al. to be used on a wider range of tubular members located at a gas station.

The applicant argues that Fuller is nonanalogous art. The examiner disagrees since the device of Fuller is attached to a tubular type member and is used for advertising purposes.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
April 15, 2005